

*Advisory*



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ADDRESS REPLY TO:  
CONSUMER PROTECTION DIVISION  
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August 13, 1984

RE: Iowa Higher Education Loan Authority Student Loans and  
ICCC Requirements

Dear

As we agreed in our meeting of August 9, 1984, this office is providing our informal advise concerning certain questions which you have raised in regard to whether the I.H.E.L. Authority may assess and collect prepayment penalties and pre-paid interest.

I believe we agreed that the ICCC would apply on all other matters except those which are referred to in § 261A.23.

...It is lawful for the authority to establish, charge, contract for, and receive any amount or rate of interest or compensation with respect to authority loans....

This section appears to exempt the authority from any interest rate ceilings of the ICCC. Accordingly, a prepaid finance charge or origination fee could be charged so long as it was disclosed to the borrower as part of the finance charge.

Whether or not a prepayment penalty may be assessed and collected is not so clear. Chapter 261A.5 does provide that the authority is a public instrumentality, therefore, under § 537.1108(3)(b) of the ICCC, the "...limitations on [the] powers an organization is authorized to organize under the laws of this state..." are not displaced by the ICCC.

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If § 261A.23 can be read to authorize a prepayment penalty, then any ICCA prohibitions against such penalties (See: § 537.2509 and § 537.2510) would not apply to student loans made by the authority. It is not an unreasonable reading of § 261A.23 to argue that a prepayment penalty is "compensation" which may be contracted for and received by the authority.

I hope this letter answers your inquiry. Please be advised that this letter is neither an informal nor formal opinion of the Attorney General and should not be construed or relied upon as such.

Sincerely,

LINDA THOMAS LOWE  
Assistant Attorney General

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